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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,585	05/23/2001	Terry Hermanson	1907.P124	8392

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EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/862,585

Applicant(s)

TERRY HERMANSON

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9,10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9,10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 4, 6, 7, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuss'004 in view of Hamilton'882. Fuss discloses a tree-top mounting device comprising a housing (24, fig. 2), an elongated support (18) slidably received within the housing with the housing capable of housing substantially half of the elongated support, a fitting head (socket 30, fig. 4) disposed at a distal end of elongated support and a fastener (22 and 26) adapted to secure the housing to the tree; a fitting head includes coupling means (30) comprising a disc (fig. 4) and a cylindrical connector (30, fig. 4).

However, Fuss does not show the means for locking the sliding rod within the housing. It is notoriously old and well-known to provide a locking mechanism for telescoping rods in a variety of uses to secure the length or fix movement of the telescoping rods for adjustment purposes. Hamilton teaches such a telescoping rod (A) with means to lock (C') the sliding rod with the housing (C). It would have been obvious to one of ordinary skill in the art to provide a fastener to the sliding rod and housing connection of Fuss'004 for fixing the sliding rod within the housing during adjustment as taught by Hamilton'882.

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuss'004 in view of Gladsden et al'270. Fuss'004 disclosed all the claimed features of applicant's claimed invention except for bayonet coupling attachment. Bayonet coupling connection are notoriously old and well-known in a variety of devices. They are known to provide an easy removable connection without the use of fasteners. Gladsden'270 teaches a light mounted on top of a post having bayonet coupling attachment (38). It would have been obvious to one of ordinary skill in the art to mount the ornament light of Fuss'004 via bayonet coupling as taught by Gladsden'270 for its known ease in mounting.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuss'004 in view of Aldridge'098. Fuss'004 disclosed all the claimed features of applicant's claimed invention except for the fastener as being hook and loop fastener. Aldridge teaches in a tree top mounting assembly of providing hook and loop fastener (20, fig. 4) for securing to the top of the tree. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the clamp fastener of Fuss'004 with hook and loop fastener strap as taught by Aldridge'098. Such modification would have involved a mere substitution of one known fastener for another well-known fastener which is well within the ambit of one of ordinary skill in the art.

Response to Arguments

Applicant's arguments filed 2/21/2003 have been fully considered but they are not persuasive. Regarding Fuss reference, applicant argues that Fuss does not have

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the housing as capable of housing substantially half the rod. Such recitation or amendment to the independent claims has overcome the 102 rejection under Fuss of examiner's previous Office Action. However, presently, the combination of Fuss and Hamilton is again presented to reject the newly amended claims.

Applicant's previous arguments filed 3/14/2002 regarding the combination of Fuss and Hamilton was that there's no suggestion to combine Hamilton's advertisement exhibits to a tree mounted device of Fuss. Examiner respectfully disagree. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, examiner is relying on the later. It is notoriously old and well-known to provide a locking mechanism for telescoping rods in a variety of uses to secure the length or fix movement of the telescoping rods for adjustment purposes. Indeed, as demonstrate by Hamilton, as well as prior art cited of record such as Hayes, Feyrer, and Gilbert, telescoping rods are known to be secured in fixed positions by fastenings means such as a thumb screw. One of ordinary skill in the art would have had the knowledge at the time the invention was made, of using set screws to fix telescoping members to maintain these members at their adjusted position. Such knowledge has been around since at least 1875 as demonstrated by Hayes, cited in the art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hayes, Gilbert, and Feyrer further demonstrate the old and well-known usage of locking means for telescoping members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Les Braun can be reached on 703-308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Korie H. Chan
Examiner
Art Unit 3632

khc
March 26, 2003